

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director / (954) 797-1101
Prepared by: David M. Abramson, Planner I

SUBJECT: Ordinance – ZB (TXT) 5-2-04 Music Lessons

AFFECTED DISTRICT: Townwide

TITLE OF AGENDA ITEM:

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE; AMENDING SECTION 12-32 ENTITLED “TABLE OF PERMITTED USES” PROVIDING FOR HOME OCCUPATION REGULATIONS; AMENDING SECTION 12-34(N) ENTITLED “HOME OCCUPATION” PROVIDING FOR INTENT, ZONING DISTRICT LIMITATIONS AND USE CRITERIA FOR MUSIC LESSONS AND STUDENT TUTORING IN SINGLE-FAMILY RESIDENTIAL NEIGHBORHOODS; AMENDING SECTION 12-503 ENTITLED “DEFINITIONS” PROVIDING FOR DEFINITIONS FOR HOME OCCUPATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF:

On March 3, 2004, at the Town Council meeting, Planning and Zoning staff was directed to research, coordinate, and provide regulations addressing music lessons and student tutoring as home occupations.

The intent of the proposed regulations is to protect and preserve the residential character of established Town of Davie neighborhoods while recognizing that music lessons and student tutoring is traditionally carried on in the home and is compatible with the long-term integrity of a single-family residential neighborhood.

The proposed land development regulations have been drafted to ensure that these particular uses will have limited adverse impacts on neighboring residents. The proposed regulations address the number of lessons that are permitted, the duration of lessons, the total square footage permitted for lessons, the permitted amount of noise produced from lessons, the amount of parking and traffic permitted for lessons.

Staff recommends approval of the proposed amendment to the land development code.

PREVIOUS ACTIONS: On June 16, 2004, Town Council discussed this item at the Town Council meeting direction at this time was given to staff to include student tutoring with music lessons as home occupations.

CONCURRENCES: At the June 23, 2004 LPA Meeting, Mr. Stevens made a motion, seconded by Vice-Chair Turin, to approve subject to changing the title of the ordinance to include the phrase "AND STUDENT TUTORING" after the words "MUSIC LESSONS"; to correct the typographical error in paragraph 1(d) and change the word "~~obtain~~" to "obtained"; and delete from paragraph 1(b)(5) the words "~~sound-proof~~". (Motion carried 4-0, Ms Lee was absent).

FISCAL IMPACT: None

RECOMMENDATION(S): Staff recommends approval of the Ordinance.

Attachments: Ordinance

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE; AMENDING SECTION 12-32 ENTITLED "TABLE OF PERMITTED USES" PROVIDING FOR HOME OCCUPATION REGULATIONS; AMENDING SECTION 12-34(N) ENTITLED "HOME OCCUPATION" PROVIDING FOR INTENT, ZONING DISTRICT LIMITATIONS AND USE CRITERIA FOR MUSIC LESSONS AND STUDENT TUTORING IN SINGLE-FAMILY RESIDENTIAL NEIGHBORHOODS; AMENDING SECTION 12-503 ENTITLED "DEFINITIONS" PROVIDING FOR DEFINITIONS FOR HOME OCCUPATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie desires to amend the Land Development Code to provide clarification on permitted uses pertaining to music lessons and student tutoring as home occupations within the Town; and

WHEREAS, the Local Planning Agency of the Town of Davie held a public hearing on June 9, 2004; and

WHEREAS, the Town Council of the Town of Davie held a public hearing duly advertised as required by State Statutes on June 16, 2004, and on date of adoption of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That Section 12-32, Table of Permitted Uses, of the Town Code is amended to read as follows:

(A) RESIDENTIAL DISTRICTS
GENERAL USE

DISTRICTS

RR	AG	S	A-1	R-1	R- 2-5	RM-5	RM- 8-16	MH- 1-10
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Home Occupation	*	*	P_*	*	*	P_*	P	P	P
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SECTION 2. That Section 12-34 (N), Home Occupation, of the Town Code is amended to read as follows:

- (N) *Home Occupation:* Home occupations are permitted for music lesson and student tutoring, telephone, and mail communication only and are subject to the regulations contained in the Town Code. In the RR, AG, E, A-1, and R-1 Districts, Town Council approval is required.

1. For the purpose of this section, the following regulations shall apply to music lessons and student tutoring:

- a. This section is intended to protect and preserve the residential character of established Town of Davie neighborhoods while recognizing that the music lesson profession and student tutoring is traditionally carried on in the home and is compatible with the long-term integrity of a single-family residential neighborhood.
- b. Music lessons and tutoring shall be only permitted in the (AG) and (A-1) Agricultural Districts, (S) Suburban District, (E) Estate District, (R-1) Estate Dwelling District, (R-2) & (R-3) Low Density Dwelling District, (R-4) & (R-5) Low Medium Dwelling District and shall be limited to the following:
 1. Only one (1) music lesson and student is allowed per residence at one (1) time.
 2. No person other than inhabitants of the residence shall be engaged in conducting the music lessons or student tutoring.
 3. Music lessons and student tutoring shall be conducted from 9:00 a.m. thru 9:00 p.m., Monday thru Friday and 10:00 a.m. thru 5:00 p.m., Saturday and Sunday.
 4. The area where music lessons and student tutoring are conducted shall occupy no more than fifteen (15) percent gross floor area, exclusive of the area of any open porch and attached garage or similar space.
 5. The areas where music lessons are conducted shall be enclosed and insulated. No music instrument shall produce excessive noise and/or vibrations to neighboring single-family homes. This section shall not apply to student tutoring.
 6. A maximum of one car is permitted per each music lesson or student. All parking generated by music lessons shall locate in residential designated parking spaces.
- c. The applicant must obtain an approval letter from any existing Home Owner Associations prior to conducting music lessons or tutoring as a home occupation.
- d. In the RR, AG, E, A-1, and R-1 zoning districts, Town Council approval is required for music lessons and tutoring as a home occupation. In all other zoning districts, a home occupational license must be obtained prior to conducting music lessons or tutoring as a home occupation. Such home occupational license shall also provide compliance with "b" and "c" as stated above.

SECTION 3. That Section 12-503, Definitions, of the Town Code is amended to read as follows:

Home occupation. A business, profession, occupation or trade conducted for gain or support, employing no one other than the resident of the home, and located entirely within a residential building and does not change the character or appearance of such building. Home occupations shall involve music lessons, student tutoring, phone and mail use only, and shall not involve the use of any accessory building or yard space or activity outside of the main building not normally associated with residential use. There shall be no signage associated with the home occupation nor shall there be display or stock in trade.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 6. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2004

PASSED ON SECOND READING THIS _____ DAY OF _____, 2004

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2004

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